

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )  
                                )  
Plaintiff,                 )       8:09CR111  
                               )  
vs.                         )       ORDER  
                               )  
BRANDON J. COLE,            )  
                               )  
Defendant.                 )

This matter is before the court on the motion to continue by defendant Brandon Cole (Cole) (Filing No. 38). Cole seeks a continuance of the trial scheduled for November 9, 2009. Cole has submitted an affidavit in accordance with paragraph 9 of the progression order whereby Cole consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act. Cole's counsel represents that government's counsel has no objection to the motion. Upon consideration, the motion will be granted.

**IT IS ORDERED:**

1. Cole's motion to continue trial (Filing No. 38) is granted.
2. Trial of this matter is re-scheduled for **December 21, 2009**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **November 2, 2009 and December 21, 2009**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 2nd day of November, 2009.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge